IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Bail Appl..No. 5135 of 2007()

CRIME NO.81/04 OF PAZHAYANNUR POLICE STATION

PETITIONER/ACCUSED NO.29

BABY, S/O.RAMACHANDRAN, MACHINGAL,
VELLAPPARA, PAZHAYANNUR, PIN- 680 587.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: STATE

THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5135 of 2007

Dated this the 22nd day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is the 29th accused. He faces allegations inter alia under Section 353 read with 149 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. The case has been registered. The petitioner was once enlarged on bail. On 09/08/2007, when the matter came up, the petitioner was not present. The application to excuse his absence was dismissed and a non-bailable warrant was issued against the petitioner by the learned Magistrate. The petitioner finds such warrant of arrest chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence on 09/08/2007 was not wilful and was due to reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the

learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007